

REMARKS/DISCUSSION OF ISSUES

Claim Summary

By this Amendment, claims 10 and 11 have been canceled, without prejudice and without disclaimer of the subject matter. Claims 1-9 have been amended to correct informalities in the claim language and to more clearly define the invention. These claims have been amended for non-statutory reasons, e.g., to replace European-style claim phraseology with American-style claim language. The claims are not narrowed in scope and no new matter is added. Further, claims 12-17 have been submitted for the Examiner's consideration, as discussed below.

Claims 1-9 and 12-17 are pending in the application. Applicant respectfully submits that all pending claims are in condition for allowance.

Allowable Claims

Applicant notes with appreciation that the Examiner has indicated the allowability of claims 4-8, if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See Office Action, p. 6.

Applicant notes that the rejection under 35 U.S.C. § 102(e) of independent claim 1, from which allowable claims 4-8 ultimately depend, has been traversed, as discussed below. However, without acquiescing to the Examiner's rejection, and for purposes of expediting prosecution and obtaining early allowance of the pending claims, Applicant has submitted new independent claim 12, which substantially includes the allowable subject matter of claim 4, new independent claim 13, which substantially includes the allowable subject matter of claim 5, and new independent claim 16, which substantially includes the allowable subject matter of claim 8. Newly submitted dependent claims 14-15 and 17-18 substantially include the subject matter of claims 6-7 and 2-3, respectively.

Accordingly, Applicant respectfully requests allowance of newly submitted claims 12-18.

Amendments to Specification

By this Amendment, paragraph [0008] of the application has been amended to substantially include the subject matter of canceled claims 10 and 11. No new matter has been added, at least because claims 10 and 11 were included in the original application.

35 U.S.C. § 101 Rejection - Claim 10

The Office Action of February 5, 2008, rejects claim 10 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. See Office Action, p. 2.

Although Applicant does not acquiesce to the propriety of the rejection or to the Examiner's reasoning regarding the same, Applicant has canceled claim 10 in order to expedite prosecution and to obtain early allowance of the pending claims. Accordingly, Applicant submits that the rejection under 35 U.S.C. § 101 is moot, and thus should be withdrawn.

35 U.S.C. § 102 Rejection - Claims 1-3 and 9

The Office Action of February 5, 2008, rejects claims 1-3 and 9-11 under 35 U.S.C. § 102(e) as being anticipated by JOHNSON et al. (U.S. Patent No. 6,928,314). Applicant respectfully traverses the rejection because JOHNSON et al. does not disclose each and every element of the claims.

Applicant relies at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. See, e.g., *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990); *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. See, e.g., *Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed

invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. See, e.g., *Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Applicant's silence on certain aspects of the rejection is by no means a concession as to their propriety. Rather, because the applied art fails to disclose at least one feature of the claims, for at least the reasons discussed below, Applicant respectfully submits that the rejection is improper and should be withdrawn.

Claim 1

Independent claim 1 recites, in part:

"... determining a reference direction in each cross sectional slice; and creating the object data set by concatenating the cross sectional slices, each cross sectional slice being orientated so that the reference directions in the cross sectional slices are aligned."

JOHNSON et al. does not teach or suggest at least these features. The Office Action asserts that reference directions are determined in each cross sectional slice and that the object data is created by concatenating the cross sectional slices, each of which is orientated so that the reference directions in the cross sectional slices are aligned is disclosed in column 14, lines 26-32 of JOHNSON et al. See Office Action, p. 4. However, the cited portion of JOHNSON et al. appears to be directed to a displayed view, shown in FIG. 4 of JOHNSON et al., which can be controlled in "navigational scouts," and states:

A bold fiducial mark such as a dot marks the current view point in these projections. A line segment extending from this point in the direction of the center of the rendered view is also shown. By manipulating the orientation of this indicator in the rendered scout, the radiologist can control the view direction with clear external reference points.

A dot on an image and a line segment extending in the direction of the center of a render view does not disclose determining a reference direction in each cross section slice, or concatenating cross sectional slices, each of which is orientated so that the corresponding reference directions are aligned. Further, it appears that the cited portion is directed to shifting a display as opposed to creating object data.

The Examiner further relies on column 14, lines 45-56, of JOHNSON et al. (see Office Action, p. 4), which is directed to interactive features, including the ability to choose a slice of colon wall to display. However, this disclosure does not cure the deficiencies discussed above, or otherwise teach or suggest determining a reference direction in each cross sectional slice and/or creating the object data set by concatenating the cross sectional slices, each of which is orientated so that the reference directions in the cross sectional slices are aligned.

Accordingly, for at least the reasons stated above, Applicant respectfully submits that claim 1 is allowable since JOHNSON et al. does not disclose each and every element of claim 1, and request withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(e).

Claims 2, 3 and 9

With regard to claims 2, 3 and 9, Applicant asserts that they are allowable at least because they depend, directly or indirectly, from independent claim 1, which Applicant submits has been shown to be allowable, as well as in view of their additional recitations.

CONCLUSION

No other issues remaining, reconsideration and favorable action upon the claims 1-9 and 12-18 now pending in the application are requested.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
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